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OFFICE OF THE CL
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C.

Edward Wayland — Appellant/Plaintiff

against

Town of Ipswich — Appellee/Defencant

No. 77-6835

PARTIAL REPLY AND OBJECTION

Edward Wayland
8 Central St.
Wilmington, Mass 01887

Charles C Dalton'
71 Central St.
Ipswich, Mass. 01938

PLAINTIFF'S AFFIDAVIT IN SUPPORT OF AMENDED COMPLAINT

During the early years of the New Nation, the proceedure methods used in the Federal and State Courts left much to be desired. In order to minimize chaos and confusion, the Supreme Court eventually developed Rules of Proceedure..a useful tool, but still only a tool.

Rule 84: "The Forms contained in the Appendix of Forms are sufficient under the rules and are intended to indicate the simplicity and brevity of statement which the rules contemplate."

The purpose of these Rules was and is an aid to the dispensation of justice; and not to hinder it. Many of the Federal Rule Decisions, interpretation of the Rules, have built guidelines and safety measures at Justice; and not the perfection of purely mechanistic methods.

Anybody, with the required time, can learn to be a good mechanic. But mechanism for the sake of mechanism is guaranteed to dry-up and to kill the spirit of Justice built into the Judicial system by the original Founders.

The Rules are an aid to Justice; and they are not an end in themselves. Justice is not an assembly line (at say: Ford Motor Company). The Rules point the way, but not the way itself.

The FRD and other decisions, relative to the rules precise forms are not mandatory (1); to be a guide(2). Inartistic Complaint is not ground for dismissal(3). That vague or unclear complaint is not subject to dismissal(4); nor because of misconceived legal theory of claim(5); that the legal theory is not mandatory(6). It is proper to plead conclusions(7); and information rather than evidence(8). A vague and ambiguous complaint cannot be attacked by motion to dismiss(9), nor stricken because argumentative(10).

In conclusion, The Plaintiff, Edward Wayland, herein avers that though the COMPLAINT AMENDED may have defects it is well within the limits established by the FEDERAL RULES OF CIVIL PROCEDURE.

(1) "Forms are not mandatory, but are intended to indicate brevity and simplicity of statement which the rules contemplate."
Fahs v Merrill (1944 CA5 Fla) 142 F2d 691, aff'd 324 U.S. 305, 89 L Ed 963, 65 S Ct 655, reh den 324 U.S. 888, 89 L Ed 1430, 65 S Ct 883.

(2) "Better practice is to utilize forms as guide in drafting pleadings."
Quilty v United Fruit Co. (1946 DC N.Y.) 6 FRD 216

(3) "Complaint prepared by plaintiff would not be dismissed, though inartistically drawn, since it stated a cause of action within four corners of complaint."
Brooks v Pennsylavania R. Co. (1950 DC N.Y.) 91 F Supp 101

(4) "The statement in the complaint may not be fully clear or artistically drawn, but such objections are not the subject of motion to dismiss."

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Comes now the Appellant, Edward Wayland, and moves this Court by his objection to strike the Appellee's MOTION TO DISMISS on the basis of bad faith, unclean hands rule, and perjury.

In addition to a direct lie, the indirect lie of deliberate distortion, misrepresentation, being wilful, is also perjury, and more so when done by a trained person who is alleged to know the laws, statutes, and Constitution.

The Appellant, Edward Wayland, herein denies all direct and implied allegations; and so makes objection, in that by making objection, every point is brought into challenge; and is much shorter than direct and immediate denial and reply. For example: on page 3 of Appellee's MOTION:

"The Appellant while able to afford legal counsel, chose to proceed pro se at all times."

This is an outright LIE, and Charles C Dalton, Town Counsel for Town of Ipswich well knows it.

Appellant, Edward Wayland, formerly of the Manhattan Project, and also formerly politically active (not Ipswich); well-cognizant of the infra-political structure, and indigent, tried several attorneys, and was turned down; Judge Tauro, with Dalton present referred Appellant to ACLU, who refused on the "grounds" that office was interested in class-action, rather than individual. (Which puzzled Appellant) The attorneys referred by ACLU also made excuses.

Thus, with knowledge of this, Appellee directly commits perjury by stating: "chose to proceed pro se at all times."

Motive for such action?--:

Massachusetts General Laws Ch 41

Section 100E (pg 304)

"A citl or town, subject to appropriation, idemnify any municipal officer for expenses or damages by him in the defense or settlement of a officer for expenses or damages by him in the defense or settlement of a claim against him in an amount not to exceed one million dollars, which claim arose out of acts performed by such officer while acting within the scope of his official duties or employment;

provided, that the defense or settlement of such claim shall have been made by the city solicitor or town counsel...."

Section 100I (pg 306)

"Idemnification of municipal officers; civil rights violations; damages arising from official duties

"Any city...or any town...shall idemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgement by reason of any act or omission including a violation of civil rights of any person under any federal law, if the official at the time of such act or omission was acting within the scope of his official duties or employment. No such municipal officer shall be idemnified under this section if he acted in a grossly negligent or malicious manner."

The above has established motive for the subsequent and continuing violations of the Appellant's Constitutional Rights. These Statutes, Appellant, Edward Wayland, was not aware of when he brought suit; in fact, Appellant knew very little law, rulings, etc., and has been learning, with handicaps, as rapidly as possible...even at this date he still has a long way to go.

However, as the Appellee, and this Court know, when a challenge is made as to how Court Findings were made, all the findings are challenged, and it is not necessary to list nor refer to them; And this, the Appellant, Edward Wayland, has done on the basis:

1. Denial of trial by jury
2. Finding without a trial, which is a Bill-of-Attainder in that Appellant was condemned without a Fair trial.
3. And that by filing MOTION TO DISMISS, Appelle is, and has violated the Amendment 1 right to petition the government for redress of grievances; and the Amendment 7 right to jury trial....as well as many other violations

of Appellant's Civil Rights.

In reply to the charges of untimeliness, the Appellee is most sensitive of the faults of which he, himself, is most guilty: Appellee has been in default, a fact that has been ignored, and if the courts had so found him, instant case would never have gone to this Court on Appeal.

Nowhere in the Constitution is immunity granted to the Town of Ipswich; in fact, M.G.L.Ch41 Sections 100E, and 100I both admit to the non-immunity.

For the above reasons, and reasons not listed are not waived, the Appellant, Edward Wayland, prays this Court to find for the Appellant.

respectfully submitted

Edward Wayland pro se
forma pauperis

Edward Wayland
8 Central St.
Wilmington, Mass.